

**FILED**

MAY 31 2013

PATRICK KEANEY  
Clerk, U.S. District Court  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF OKLAHOMA

KELLY BRYANT and HOLLIE BRYANT, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
SAGAMORE INSURANCE COMPANY, )  
 )  
Defendant. )

Case No. CIV 13 - 240 - KEW

**COMPLAINT**

The Plaintiffs, Kelly Bryant and Hollie Bryant (hereinafter "Bryants"), by and through their attorneys of record, Lytle, Soulé & Curlee, P.C., and Mikel Flores, P.C., for their cause of action against the Defendant, Sagamore Insurance Company (hereinafter "Sagamore"), allege and state:

**JURISDICTION AND VENUE**

**I.**

Plaintiffs are residents of Carter County, State of Oklahoma, and citizens of the State of the Oklahoma at the time of the filing of this action.

*consent form provided*

**II.**

Defendant, Sagamore Insurance Company, is a corporation domiciled in the State of Indiana with its principal place of business in Indianapolis, Indiana.

**III.**

Sagamore may be served with process by and through its registered agent: CT Corporation System, 251 E. Ohio Street, Suite 1100, Indianapolis, Indiana 46204.

**IV.**

The acts and/or omissions giving rise to this lawsuit occurred in Carter County, which is in the Eastern District of Oklahoma.

**V.**

The amount in controversy, exclusive of interest and costs, is in excess of Seventy-Five Thousand Dollars (\$75,000.00), thereby providing this Court with jurisdiction and venue.

**VI.**

This Court has jurisdiction by reason of the diversity of citizenship between Plaintiff and Defendant, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1391.

**FACTUAL BACKGROUND**

**VII.**

On or about May 25, 2011, Kelly Bryant purchased an automobile policy with Sagamore, Policy No. 654677, which, at all times material, was in full force and effect.

**VIII.**

Kelly Bryant made all premium payments as required under the policy.

**IX.**

The policy issued by Sagamore and similar policies issued by it are designed to provide policyholders with insurance in the event of motor vehicle accidents.

**X.**

While this policy was in force and effect on June 29<sup>th</sup>, Hollie Bryant had an accident with a Cuba Lawrence on State Highway 70 in Carter County.

**XI.**

The Bryants made a claim upon their carrier and Sagamore denied coverage. In spite of repeated requests by the Bryants, Sagamore not only denied coverage but refused to provide a defense.

**XII.**

As a direct result of Sagamore's acts and omissions, a lawsuit was filed in Carter County on May 2, 2012, by Cuba Lawrence against Hollie Bryant, Case No. CJ-2012-120.

**XIII.**

Throughout the pendency of that action, both the Bryants and attorneys for Lawrence continued to demand that Sagamore honor its obligations under the policy and provide a defense as well as indemnification to Hollie Bryant. Sagamore refused.

**XIV.**

As a result of Sagamore's refusal to honor the terms of the policy it issued, Cuba Lawrence received a judgment in the amount of \$694,458.23.

**XV.**

Sagamore continues its unlawful refusal to pay under its policy, claiming that Hollie Bryant was an excluded driver in derogation of Oklahoma extant law, both breaching its contract and failing to act fairly and in good faith with regard to its insureds.

**FIRST CAUSE OF ACTION**

**BREACH OF CONTRACT**

The Plaintiffs, Kelly Bryant and Hollie Bryant, for their First Cause of Action against the Defendant, Sagamore Insurance Company, adopt and reallege the factual allegations set forth in numerical paragraphs I through XV heretofore, and in addition, allege:

**XVI.**

The Sagamore policy constitutes a valid and enforceable insurance contract between Plaintiffs and Sagamore.

**XVII.**

The Plaintiffs have fully performed and abided by all the terms and conditions of that insuring agreement.

**XVIII.**

Sagamore breached and continues to breach the above-referenced insuring agreement by failing to pay the judgment rendered against Hollie Bryant for which Sagamore had actual and constructive notice.

**XIX.**

As a result of Sagamore's breach, the Plaintiffs have suffered and will continue to suffer damages, including but not limited to, the loss of coverage, anxiety, frustration, mental and emotional

distress, the rendering of a judgment in the amount of \$694,458.23 with the attendant sleeplessness and emotional distress accompanied thereto, required to incur attorney fees and expenses, all as a direct result of the breach of contract of Sagamore.

**SECOND CAUSE OF ACTION**

**BAD FAITH**

The Plaintiffs, Kelly Bryant and Hollie Bryant, for their Second Cause of Action against the Defendant, Sagamore Insurance Company, adopt and reallege the factual allegations set forth in numerical paragraphs I through XIX heretofore, and in addition, allege:

**XX.**

Sagamore wrongfully failed and refused to promptly accept coverage for the underlying claim of Lawrence v. Bryant and improperly denied coverage in derogation of Oklahoma law.

**XXI.**

Upon information and belief, Sagamore, as a matter of routine business practice in handling Oklahoma claims, knowingly and intentionally breaches its duty to deal fairly and act in good faith toward the Plaintiffs and other similarly situated by:

- A. Failing to be licensed as adjusters in Oklahoma;
- B. Failing to become even moderately familiar with the laws of the State of Oklahoma;
- C. Failing to diligently or properly investigate the Plaintiffs' claim;
- D. Failing to provide a defense to the Lawrence v. Bryant matter in derogation of the policy and Oklahoma law; and,
- E. Failing to defend and indemnify or to settle the underlying the claim of Lawrence v. Bryant.

**XXII.**

Sagamore has violated 36 O.S. § 1250.1 in handling the Plaintiffs' claims for which the Plaintiffs are entitled to damages, statutory interest and attorney fees as allowed by law.

**XXIII.**

Plaintiffs have suffered damages, including but not limited to, the loss of coverage, anxiety, frustration, mental and emotional distress, the rendering of a judgment in the amount of \$694,458.23 with the attendant sleeplessness and emotional distress accompanied thereto, required to incur attorney fees and expenses, all as a direct result of the breach of contract and bad faith of Sagamore.

**XXIV.**

Sagamore acted wrongfully, intentional and with malice and/or has been guilty of reckless disregard of the rights of the

Plaintiffs therefore entitling the Plaintiffs to an award of exemplary damages.

WHEREFORE, the Plaintiffs, Kelly Bryant and Hollie Bryant, pray for judgment against the Defendant, Sagamore Insurance Company, in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus interest, costs, and such other relief allowed by law.

Respectfully submitted,

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By: \_\_\_\_\_  
ATTORNEYS FOR PLAINTIFFS

ATTORNEYS' LIEN CLAIMED.

JURY TRIAL DEMANDED.

RMH:laf - BRYANT(v SAGAMORE).COM 5/22/13